



## FOLLOW-UP REPORT



# A Review of the Child Protective Services Program at the Department of Social Services

### INTRODUCTION

This is a follow-up review of the audit, *A Review of the Child Protective Services Program at the Department of Social Services*, released by the Legislative Audit Council in August 2006. This review was conducted to determine the extent to which recommendations presented in the 2006 report have been implemented. A copy of the original report can be obtained through the contact information at the end of this report.

Our 2006 audit found that the Department of Social Services (DSS) could have done more to protect vulnerable children. In a number of cases, DSS violated either state law or DSS policy designed to protect children from abuse and neglect. In addition, we found that individuals who should have been placed in the Central Registry of Abuse and Neglect had been omitted.

We also identified several instances where individual counties had consistently underperformed on certain child protective services (CPS) performance measures and found that actions taken by DSS to improve performance in these areas did not result in significant improvements.

During our follow-up, we found that DSS has made progress in some areas, but improvement is still needed. We determined that 5 of the 12 recommendations to the agency had been implemented and 3 recommendations had been partially implemented. The one recommendation directed to the Office of Court Administration regarding the central registry was not implemented. The General Assembly did not act on its two recommendations.

### RECOMMENDATIONS AND CURRENT STATUS

1. *The General Assembly should amend S.C. Code §20-7-650 to require that children in child protective services treatment cases be seen at least once every 30 days.*

The General Assembly did not amend this code section.

2. *The Department of Social Services should establish a system for ensuring compliance with the requirement that children in child protective services treatment cases be seen every 30 days.*

While significant progress has been made, this recommendation has not been fully implemented. For the month of August 2006 (date our original audit was published), DSS documents indicated that approximately 60% of children in CPS treatment cases had face-to-face visits. In the month of April 2009, almost three years later, agency documents showed that 91% of the required visits were made. DSS also uses another measure which shows the percentage of children who were seen every month they were in care during the last year. As of June 2009, agency records indicated that DSS was meeting this standard in 64% of its treatment cases.

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In August 2007, DSS revised its policy from requiring children in child protective services treatment cases to be seen every 30 days to requiring them to be seen once a calendar month. While progress has been made in strengthening the system used to measure compliance with this requirement, DSS still needs to improve the actual implementation of the requirement that children in CPS treatment cases be seen once a calendar month. Children in treatment cases often reside in the home where those who have abused or neglected them also reside. DSS is supposed to supervise this living situation to ensure that no further abuse or neglect occurs, and the conditions that led to abuse or neglect are eliminated.

*3. The Department of Social Services should establish a policy outlining how counties will be held accountable for not completing investigations within 60 days. The department should also take corrective action when counties do not comply.*

The agency is in partial compliance with this recommendation. In response to this recommendation, DSS clarified its policies regarding disciplinary actions against individual workers who violate state law or agency policy, but it did not establish a policy regarding holding counties accountable for not completing investigations within 45 days (or 60 days if an extension is granted). In our initial report, we found that a number of determinations in our sample counties were not made within 60 days. For the year 2008, however, agency documents showed that a total of only 27 determinations statewide were made over 60 days. The agency also reported that the statewide average of counties completing investigations in a timely manner from May 1, 2008, through April 30, 2009, was 99.24%.

*4. The Department of Social Services should include, in its annual accountability report, performance measures for the percentage of cases in which children were not seen every 30 days and the number of case determinations which exceeded 60 days.*

DSS has implemented this recommendation. In its FY 07-08 accountability report, DSS reported on both of these measures. According to that report, there were significantly fewer case decisions (as of September 2008) taking longer than 60 days than in the previous fiscal year.

*5. The Department of Social Services should stop delaying or “pending” cases unless state law is amended to expressly authorize the department to delay the initiation of an investigation.*

This recommendation has not been implemented. DSS did not stop delaying or “pending” cases; nor was state law amended to expressly authorize the department to delay the initiation of an investigation.

As in its original response to the audit, DSS stated that state law “does not prohibit” pending and the agency’s legal interpretation of state law authorizes DSS to implement policy regarding screening criteria as part of the intake process, even though the agency already has a mechanism for screening out reports during the intake process. While the agency responds that it has revised its policy to emphasize that pending is to be used only when additional information is available from an involved professional and must not take more than 24 hours from receipt of the report of abuse or neglect, the agency continues to pend cases even longer than the 24 hours agency policy allows.

According to S.C. Code 63-7-920 (A)(1), case decisions must be initiated within 24 hours of the report being received by the agency. According to the agency’s data, an average of only four counties met the goal of initiating investigations in a timely manner from October – December 2008. According to DSS data, 1,222 (7%) of 17,582

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CPS investigations were pending during the 2008 calendar year. Of these, 7 cases were “pending” more than 96 hours (4 days).

*6. If the law is amended, the department should establish, through regulation, its policy and criteria for pending allegations of abuse and neglect. The regulation should specify that decisions to accept or reject a report are not to be delayed more than 24 hours.*

State law was not amended.

*7. The Department of Social Services should ensure that allegations of abuse and neglect are reviewed by a supervisor and that a treatment plan is developed within 30 days of the case decision.*

The agency has not implemented this recommendation. While DSS has several oversight processes in place to identify concerns, provide training on good practices, and to hold staff accountable, these processes are not ensuring that allegations are being reviewed by a supervisor and that treatment plans are developed within 30 days of the case decisions.

Allegations of abuse and neglect are not consistently being reviewed by supervisors within five days after a report has been accepted for investigation, as required by DSS policy. During 2008, 46% of cases statewide did not have this supervisory review within five days.

DSS's Division of Planning & Quality Assurance conducts detailed reviews of county welfare programs, including the timeliness and quality of treatment plans. However, DSS does not currently track whether treatment plans are developed within 30 days of the case decision.

*8. The Department of Social Services should continue its efforts to ensure that the Central Registry of Abuse and Neglect is properly maintained, including:*

- Taking all indicated cases of sexual abuse to family court in a timely manner, as required by S.C. Code §20-7-650(O).*
- Adding all individuals convicted of sex offenses against minors by a criminal court as required by S.C. Code §17-25-135.*

*(It should be noted that Title 20, Chapter 7 of the S.C. Code was repealed and replaced by Title 63 — S.C. Children's Code. S.C. Code §20-7-650(O) is now addressed in S.C. Code §63-7-1930.)*

In our 2006 audit, we found that DSS had no process to ensure that perpetrators of sexual abuse were either taken to court to obtain a court order for placement in the central registry or that names were entered in the registry where the agency already had a court order. During our initial audit, DSS identified 1,857 perpetrators who were not appropriately entered in the registry or taken to court to determine if they should be entered in the registry, as required by law.

DSS has implemented this recommendation. The agency started monitoring the central registry and has continued its efforts to ensure that the central registry is properly maintained. The agency designated an employee whose primary responsibility is to monitor the central registry and work with the counties to reconcile discrepancies. In

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July 2008, DSS identified another 1,002 perpetrators of sexual abuse who either had not been taken to family court or whose names had not been entered in the registry if a court order already had been issued. DSS officials stated that these individuals had not been identified previously due to a computer error. As of April 2009, DSS needed to reconcile 1,341 cases so they can be added to the central registry or have a judge determine that they did not have to be placed in the central registry. We conducted a non-statistical sample and found that all family court orders and criminal sentencing orders for a specified time period for our five sample counties had been entered in the central registry.

### *9. The Office of Court Administration should monitor judges and county clerks of court to ensure they carry out their duties related to the Central Registry of Abuse and Neglect.*

During the initial audit, the Office of Court Administration (OCA) revised the sentencing form used by judges by adding a check off box to indicate if the defendant should be placed in the central registry. The manual used by clerks of court was also updated regarding placement in the central registry. The agency has not issued subsequent guidance since the audit, and states that it handles individual issues as they arise. We found that this recommendation has not been implemented.

During this follow-up review, we identified other issues regarding the monitoring of judges and county clerks, including judges not ordering individuals convicted of sexual offenses against minors to be listed in the central registry, individuals living in South Carolina but convicted in other states of these types of crimes not being required to be in the central registry, and the lack of a system to ensure that orders forwarded to DSS from the clerks of court are received by DSS and entered in the central registry.

We reviewed a random, nonstatistical sample of nine individuals found on SLED's sex offender registry who had been convicted after January 2007 of crimes of a sexual nature against minors to determine if these names were found in DSS's central registry. Two were found in the DSS central registry. A review of the sentencing orders for the remaining seven showed that:

- One defendant had been ordered to be placed in the central registry, but the name was not there. (Because of our inquiry, DSS obtained a copy of the sentencing order and entered the name in the central registry immediately.)
- Three individuals were convicted in other states of sexual crimes against minors. (They were on SLED's sex offender list, but not in the central registry.)
- The remaining three individuals were not ordered by the judges to be placed in the central registry even though it appears from state law that they should have been.

#### *Sentencing*

S.C. Code §17-25-135(A) mandates that "...the court shall order that the person's name...be placed in the Central Registry..." if convicted of acts including, but not limited to, sexual abuse against a minor. The three convictions for which the defendants in our sample were not ordered in the central registry were: "lewd act upon child under 16 YOA," "sex/assault with intent to commit criminal sexual conduct – third degree," and "committing a lewd act on a child under 14." For these same three offenses, the defendants were sentenced from 7 to 15 years in the State Department of Corrections. The seriousness of these crimes indicate the need for the individuals to be placed in the central registry.

#### *Out-of-State Convictions*

We could not determine why individuals now living in South Carolina, but convicted of these types of crimes in other states, should not be added to the central registry. South Carolina law is silent on this issue.

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### *Better Coordination Needed*

In the one case where the judge ordered placement in the central registry, the county provided the DSS form showing that it had forwarded the case to DSS; however, DSS had no record of receiving it. If a convicted defendant did not have previous DSS involvement, DSS would have no knowledge of the case or the possible need for the defendant to be placed in the central registry. There is no system in place to ensure that orders forwarded to DSS from the clerks of court are received by DSS.

These issues should be further investigated by the Office of Court Administration and DSS to ensure that all individuals convicted of sex offenses against minors are in the central registry. Entities, such as childcare facilities, are depending, in part, on this registry to ensure that individuals who have committed sexual offenses against minors are not employed to work with children.

*10. The Department of Social Services should implement controls in the Child and Adult Protective Services System to require caseworkers to obtain the approval of their supervisors before entering data after a specified time period.*

This recommendation has not been implemented. After our initial audit, DSS implemented a policy requiring workers to obtain the approval of the county director to enter data into the system if the data entry is 30 or more days late. The agency further states that it will continue to study this issue to see if this policy deals with the real problem as identified in the audit. The policy does not outline how that approval will be documented or whether the approval will be in writing or verbal. According to an agency official, county directors use procedures that work best for their individual counties. Applying agency directives differently can lead to inconsistency in documentation and application. During calendar year 2008, 16,392 (6%) case action entries were entered more than 30 days after the action.

*11. The Department of Social Services should conduct a formal analysis to determine the number of cases a child protective services worker in South Carolina could manage successfully and where they should be allocated. In this analysis, DSS should consider county demographics, current caseloads, turnover, and other specific obstacles of individual counties.*

According to DSS, budgetary considerations have prevented the agency from doing a formal workload study; therefore, this recommendation has not been implemented.

*12. All child protective services staff performing the intake function should receive specific training on the intake process.*

DSS has implemented this recommendation. In February 2007, DSS provided a mandatory one-day training session for all dedicated intake workers and supervisors in the state. Intake training is also a required session for basic training for newly-hired caseworkers.

*13. The Department of Social Services should establish methods to identify employees with significant violations of law or policy so that the county may take appropriate disciplinary actions.*

The agency implemented this recommendation by developing several tracking reports which identify individual employees who have violated policy or law. From October 31, 2008, through April 27, 2009, 20 CPS caseworkers had some level of discipline taken against them. Five supervisors were disciplined during that same time period.

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### *14. The Department of Social Services should ensure that its human resources system documents employees who are allowed to resign before disciplinary action is taken against them.*

DSS has implemented this recommendation. The agency stated that it has only occasionally allowed employees to resign before disciplinary action is taken against them. According to DSS human resources (HR) officials, the hiring authorities in the counties are required to contact state office HR before hiring a previously DSS-employed individual. If the person had been allowed to resign before being terminated, DSS legal counsel would be involved in determining how to proceed.

### *15. The Department of Social Services should ensure that counties are held accountable for their effectiveness in meeting agency performance measures. This could include incentives for counties that consistently meet agency standards and penalties for those that do not.*

This recommendation has been partially implemented. DSS reports that it has implemented a system of accountability for the counties; however, no incentives have been provided because the agency reports that it does not have the funds. Also, no penalties have been imposed for counties which continually under perform on agency performance measures. The agency has taken additional steps to enhance its efforts to monitor counties including:

- Monthly dashboard reports generated by the Division of Planning & Quality Assurance. These reports show county performance on various measures.
- The agency plans to hire a county director for each county. In 2006, the agency reported that there were 29 county directors. As of August 2009, there were 43 county directors. Performance reviews for county directors include holding the directors responsible for ensuring the proper administration of all programs, which is measured, in part, by outcome measures.
- Since March 2008, DSS has hired six regional directors to serve as management consultants to county directors and other staff.
- The agency has established child welfare services review debriefings in which the state director meets with county and regional staff to discuss a county's review findings.
- The state director has also implemented a child welfare council that meets weekly. The council includes county representation, policy staff, and training coordinators and meets to collaborate on policy development and strategic planning.

This follow-up was limited to the issues in the 2006 audit for which we made recommendations. We received information from relevant agencies regarding the implementation of the recommendations in the audit. We reviewed this and other information, and verified evidence supporting the agency information as appropriate. A copy of the original report is available on our website or upon request.

#### SOUTH CAROLINA GENERAL ASSEMBLY **Legislative Audit Council**

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Thomas J. Bardin, Jr.  
Director

1331 Elmwood Ave., Suite 315  
Columbia, SC 29201  
803.253.7612 (voice)  
803.253.7639 (fax)

LAC.SC.GOV